

**7-41B. Noncompliance Penalty: Agency Representation in Hearings and Signing of Consent Agreements (1200 TN 350 7-41B)****1. AUTHORITY.**

- a. To represent EPA in civil penalty adjudications conducted under the noncompliance penalty section, section 120(a) of the Clean Air Act and 5 U.S.C. section 554;
- b. To negotiate consent agreements between the Agency and respondents resulting from such enforcement actions;
- c. To initiate an appeal from an administrative determination; and
- d. To represent the agency in such appeals.

**2. TO WHOM DELEGATED.**

- a. The authority in 1.a. and 1.d is delegated to the regional counsel and attorneys in the Office of Regional Counsel.
- b. The authority in 1.b. is delegated to the regional counsel; director, Air Protection Division (APD); director, Hazardous Site Cleanup Division (HSCD); and director, Office of Enforcement, Compliance, and Environmental Justice (OECEJ).

**3. LIMITATIONS.**

- a. Only the AA for OECA may exercise the authority to initiate appeals.
- b. The AA for OECA must notify any affected RA before an appeal is initiated.
- c. The agency official who signed the complaint should sign the settlement agreement.
- d. The delegates in paragraph 2.b. above must obtain the concurrence of the regional counsel prior to exercising the authority in 1.b.
- e. The director, HSCD may exercise these authorities only in those facilities that do not comply with 112(r) of the CAA.
- f. The director, OECEJ may exercise these authorities only in multi-media cases.
- g. The director, OECEJ must consult with the APD delegatee before exercising these authorities.
- h. The director, OECEJ must consult with the HSCD delegatee before exercising this authority for penalties for non-compliance with the requirements of 112(r) of the CAA.

**4. REDELEGATION AUTHORITY.**

- a. This authority may be redelegated to the associate director level and no further. This authority may not be redelegated without formal amendment.
- b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

**5. ADDITIONAL REFERENCES.**

- a. Section 120 of the CAA.

6. **SUPERSESSION.** Delegations Manual, CAA, Regional Delegation 7-41-B.  
Noncompliance Penalty: Agency Representation in Hearings and Signing of Consent  
Agreements, 1200 TN RIII-147 (August 26, 2002).

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Cecil Rodrigues  
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